

Amendments to Chapter 13-75,
Hawaii Administrative Rules

1. Section 13-75-12.2, Hawaii Administrative Rules, is amended by adding a subsection (g) to read as follows:

"§13-75-12.2 Lay nets. (a) It is unlawful for any person, in, on, or about State waters to:

- (1) Possess or use a lay net that has not been registered with the department;
- (2) Possess or use a lay net which is, or lay nets which when set end to end are:
 - (A) Longer than 125 feet in length and more than seven feet in stretched height, except as provided in section 13-60.3-5; and
 - (B) Of less than two and three-fourths inches stretched mesh, except as provided in subsection 13-52-2(2)(A);
- (3) Possess or use a multi-panel lay net;
- (4) Possess or use a lay net that does not have at least four identification tags as specified or provided by the department. One identification tag must be attached at each end of both the net float line and the net lead line for a total of four attachment points on each lay net.
- (5) Fish with more than one lay net at a time.

(b) It is unlawful for any person using the lay net fishing method to:

- (1) Use a lay net that is not marked by surface buoys as specified or provided by the department. The buoys shall display the lay net registration number, be marked with reflective tape, and visible above the surface of the water. The buoys shall be attached to each end of the float line for a total of two buoys for each lay net;
- (2) Use a lay net within 250 feet of another lay

net, except as provided in section 13-60.3-5;

- (3) Use a lay net in water greater than 25 feet in depth; provided that a person with a commercial marine license may use a lay net in water depths up to 100 feet, except as provided in section 13-60.3-5;
- (4) Use a lay net for more than four hours during any one set; provided that after one set, the same lay net may not be used again within twenty-four hours after the ending of the set; and provided further that no person shall set any other lay net within that twenty-four hour period after the ending of the set;
- (5) Leave a lay net unattended for more than one-half hour;
- (6) Retrieve a lay net in such a manner as to cause any stony coral to break either from its attachment to the bottom or in smaller pieces. Any stony coral brought to the surface in the net shall be considered a violation of this section;
- (7) Fail to complete inspection of an entire lay net within two hours after the beginning of the set. The person lay net fishing shall inspect the lay net and release any threatened, endangered, prohibited, or unwanted species;
- (8) Discard, abandon, or leave any lay net, or portion thereof, in the water for longer than four hours;
- (9) Use a lay net in freshwater streams or stream mouths;
- (10) Use a lay net during the period from two hours after sunset to two hours before sunrise, except as provided in section 13-60.3-5.

(c) It is unlawful for any person to falsely identify, with identification tags, any lay net that

is not registered with the department as required in subsection (a).

(d) Should any registered net be lost, destroyed, sold, traded, stolen, given away, or otherwise no longer the property of, or no longer in the possession of the registered owner, then the registered owner shall be responsible for the lay net until a report is filed and confirmed by the department.

(e) Any lay net, in, on , or about the water that is not registered or that does not have proper identification tags or surface buoys as required in subsections (a) and (b), or that does not comply with any other provision of this section, shall be considered contraband and subject to immediate seizure by the department, except as provided for in section 13-60.3-5.

(f) It is unlawful for any person to use a lay net in the following areas as provided in the table describing the boundary coordinates or locations for the prohibited fishing areas, located at the end of this chapter, entitled, "Table of Descriptions of Lay Net Fishing Prohibited Areas" dated April 19, 2006, and in the maps located at the end of this chapter, entitled, "Map of Lay Net Fishing Prohibited Area: Maui" dated April 19, 2006, and "Map of Lay Net Fishing Prohibited Areas: Oahu" dated April 19, 2006, and "Map of Lay Net Fishing Prohibited Area: Kane`ohe Bay, O`ahu" dated April 19, 2006:

- (1) Island of Maui;
- (2) Kawaihoa Point to Keahi Point, Oahu;
- (3) Mokapu Point to Wailea Point, Oahu;
- (4) Kaneohe Bay, Oahu

(g) Because of the critical need for protection of coral reef fish species, the department may need to respond quickly to establish or modify lay net fishing prohibited areas. The lay net fishing prohibited areas shall be established or amended by formal board action at a publicly noticed meeting. The lay net fishing prohibited areas are attached at the end of

this chapter in a table entitled, "Table of Descriptions of Lay Net Fishing Prohibited Areas" dated April 19, 2006, and in maps entitled, "Map of Lay Net Fishing Prohibited Area" dated April 19, 2006, or as amended by subsequent board action and a copy of the amended table and maps shall be filed with the Office of the Lieutenant Governor. Any such amendment shall also include the most current date in this subsection.

(h) Any person violating any subsection of this provision shall be subject to penalty as provided under chapter 187A, HRS. Each violation may constitute a separate offense." [Eff and comp_____ am_____] (Auth: HRS §§187A-5, 188-53) (Imp: HRS §§187A-5, 188-53)

2. Chapter 13-75, Hawaii Administrative Rules, is amended by adding a section 12.3 to read as follows:

"§13-75-12.3 State waters around Molokai, special rules. (a) Notwithstanding the provisions of section 13-75-12.2, it is unlawful for any person on or about the State waters of the island of Molokai to use a lay net or lay nets:

- (1) that exceed 750 feet in length and more than seven feet in stretched height;
- (2) that have a stretched mesh of less than two and three-fourths inches.

(b) Notwithstanding the provisions of section 13-75-12.2, any person who uses a lay net or lay nets on or about the State waters of the island of Molokai shall:

- (1) register and obtain identification tags from the department for those lay nets;
- (2) when set, mark lay nets with at least two surface buoys at each end of its total length, and those surface buoys shall display the department registration number, be marked with reflective tape and be large enough to be visible to the naked eye from a distance of 1,320 feet;
- (3) set the lay nets not to exceed twelve hours, and that once finished, that nets cannot be used again for at least twenty-four hours;
- (4) leave a distance of at least 1,320 feet from any other lay nets that are already set;

(5) complete at least two inspections of the entire length of lay net set, and shall release any unwanted, prohibited, threatened or endangered species.

(c) Any person violating any subsection of this provision shall be subject to penalty as provided under chapter 187A, HRS. Each violation may constitute a separate offense." [Eff
] (Auth: HRS §§187A-5, 188-53) (Imp: HRS §§187A-5, 188-53)

3. Material, except source notes, to be repealed is bracketed. New material is underscored.

4. Additions to update source notes to reflect these amendments are not underscored.

5. The amendments to Chapter 13-75, Hawaii Administrative Rules, shall take effect ten days after filing with the office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the office of the Lieutenant Governor.

PETER T. YOUNG, Chairperson
Board of Land and Natural
Resources

APPROVED AS TO FORM:

Deputy Attorney General